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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,730	06/25/2001	Clive Hayball	0584-1041	2086

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EXAMINER
BILGRAMI, ASGHAR H

ART UNIT	PAPER NUMBER
2143	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)
	09/888,730	HAYBALL ET AL.
	Examiner	Art Unit
	Asghar Bilgrami	2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>20 November 2006</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1,2,5,7,8,10,12,13,19-25 and 27-36* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1,2,5,7,8,10,12,13,19-25 and 27-36* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2.   Claims 1, 25, 27 & 30 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant amended all the independent claims to state that GLLS is in a client network. However the specification does not support such limitation. However the specification describes that GLLS to be at the network's edge. Applicant is advised to formulate the claims as dictated by the boundaries of the submitted specification.

Claim Rejections - 35 USC § 103

4.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

5.   Claim 1, 2, 5, 7, 8, 10, 12, 13, 19-25, 27-36 rejected under 35 U.S.C. 103(a) as

being unpatentable over Logan et al (U.S. 6,578,0066 B1).

6.   As per claims 1, 25, 27 & 30 Logan disclosed a computer readable storage

medium storing instructions that, when executed on entities within a network cause the

entities to perform a method for handling a resource request, the method comprising the

steps of; receiving a resource request at a GLLS in a client network from a client in the

client network, the resource request identifying the requested resource: the GLLS

forwarding the resource request to a GDLS at a, location remote from the client network

(col.4, lines 47-67 & col.5, lines 1-2): the GDLS searching a database for a resource

record associated with the requested resource the resource record including a series of

executable instructions (col.3, lines 39-67): the GDLS analyzing a set of resource

providers and determining the resource providers compatible with the resource request;

the GDLS transmitting a response containing a list of resource providers to the GLLS,

the list including server selection criteria associated with the resource providers; the

GLLS selecting the best resource provider in the list according, to the server selection

criteria: and the GLLS executing- the executable instructions to facilitate providing the

requested resource to the client by the best resource provider (col.5, lines 46-67 &

col.6, lines 1-3). Although Logan did not explicitly disclose GLLS (Generic Local Lookup

Server) to be in a client network. However Logan did mention that "server switch" also

known as front end servers provide server related management in all internet/Intranet

(LAN) infrastructures. Logan further states that client access the service using a virtual

service address that resides in a server switch that front ends those real servers. As

connection request arrives for the virtual service, the service switch passes these

requests onto one of the real servers in the hunt group based upon the knowledge of

the server's availability, load balancing capability, and present load (col.1, lines 54-67 &

col.2, lines 1-6). It would have been obvious to one in the ordinary skill in the art at the

time the invention was made to have incorporated the GLLS in the local client network.

7.   Additionally, by just simply moving/relocating the lookup server from a remote

location to a local location while it is performing the same functions does not make it

patentable. If applicant has a reason behind such relocation it should be mentioned in

the claim language in light of the specification for proper examination.

8.   As per claim 2 Logan disclosed a method according to Claim 1, wherein the

resource request further comprises information relating to client location in the network

and access speed (col.5, lines 46-65).

9.   As per claim 5 Logan disclosed a method according to Claim 2 wherein the

information is added to the resource request after said resource request is received at

the GLLS from the client (col.4, lines 47-67 & col.5, lines 1-2).

10.   As per claim 7 Logan disclosed a method according to claim 1, wherein the

GLLS is a DNS server and the step of receiving a resource request comprises receiving

a request concerning access to the resource provide (col.4, lines 47-67 & col.5, lines 1-

2).

11.   As per claim 8 Logan disclosed a method according to Claim.1:, further

comprising the steps of the GLLS: converting the resource request form operable by the

GDLS and transmitting the converted resource request to the GDLS (col.4, lines 47-67

& col.5, lines 1-2).

12.   As per claim 10 Logan disclosed a method according to Claim 1, wherein the

requested resource is provided to the client by the best resource Provider via the GLLS

(col.5, lines 46-67 & col.6, lines 1-3).

13.   As per claim 12 & 13 Logan disclosed a method according to Claim 1, wherein

resource provider is an application (col.5, lines 46-67 & col.6, lines 1-3).

14.   As per claim 19 Logan disclosed a method according to Claim 1, wherein the

resource request is a DNS record and the information in the resource request is

contained within an additional DNS text field forming part of the DNS record (col.5, lines

46-67 & col.6, lines 1-3).

15.   As per claim 20 Logan disclosed a method according to Claim 16, wherein the

response transmitted by the GDLS is a DNS record and the server selection criteria of

the compatible resource providers are contained within an additional DNS text field

forming part of the DNS record (col.5, lines 46-67 & col.6, lines 1-3).

16.   As per claim 21 Logan disclosed a method according to Claim 1, further

comprising

Identifying a lookup means for accessing said resource provider (col.3, lines 8-25).

17.   As per claim 22 Logan disclosed a method according to claim 21 wherein the

look up means comprises an address (col.3, lines 8-25).

18.   As per claims 23 & 24 Logan disclosed a method according to Claim 21 wherein

the identifying comprises retrieving a second identity of the network entity (col.4, lines

47-67 & col.5, lines 1-2).

19.   As per claim 29 Logan disclosed an architecture according to claim 28, further

comprising a content, distribution point manager CDPM associated with the GDL, the

CDPM holding information on resource provider, said CDPM configured to provide

information on all known resource providers able to supply the requested resource on

receiving a query from the GLLS corresponding to the resource request received by

GLLS (col.4, lines 47-67 & col.5, lines 1-2).

20.   As per claim 31 Logan disclosed a method according to Claim 2, wherein the

sever selection criteria includes information on one of the group comprising: a response

time of said resource provider, a load on said resource provider, a distance to the

resource provider from the, and a throughput of the resource provider (col.5, lines 46-67

& col.6, lines 1-3).

21.   As per claim 32 Logan disclosed a method according to Claim 1, wherein the

requested resource is available on the resource provider but is not available on the

GLLS (col.4, lines 47-67 & col.5, lines 1-2).

22.   As per claim 33 Logan disclosed a communications network comprising the

scalable architecture as claimed in claim 27 (col.12, lines 5-11).

23.   As per claim 34 Logan disclosed a method according to Claim 1 wherein the fist

of resource providers transmitted by the GDLS is in order of their compatibility with the

resource request, the most compatible resource provider placed first (col.4, lines 47-67

& col.5, lines 1-2).

24.   As per claim 35 Logan disclosed a method according to Claim 1 wherein the

GLLS includes a Content Distribution Point Manager (CDPM), the CDPM adapted to

provide information about local resource providers within an ISP domain (col.4, lines 47-

67 & col.5, lines 1-2).

25.   As per claim 36 Logan disclosed a method according to Claim 1 wherein the

GDLS includes a Content Distribution Point Manager (CDPM), the CDPM adapted to

provide information about resource providers throughout the network (col.4, lines 47-67

& col.5, lines 1-2).

Response to Arguments

26.   Applicant's arguments filed November, 13, 2006 have been fully considered but they are not persuasive.

27.   Applicant argued that Logan does not disclose or even suggests a "GLLS in a client network".

28.   As to applicant's argument, not even applicants specification disclose such scenario. Please see examiner's rejection on line 1 of this office action.

29.   Applicant argued that Logan does not teach the best GLLS selecting the best resource provider in the list according to the server selection criteria.

30.   As to applicants broad argument Logan clearly describes selecting the best site according to a specific criteria for example the site that imposes minimum delay (please read col.5, lines 46-59).

31.   Applicant is again advised to that when reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense

of a person of ordinary skill in the art without any specific hint or suggestion in a

particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every

reference relies to some extent on knowledge of persons skilled in the art to

complement that is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA

1977).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

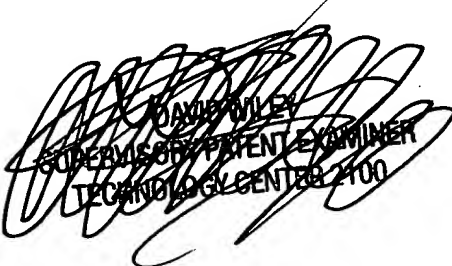than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-
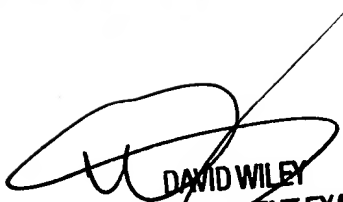
3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, David Wiley can be reached on 571-272-3924. The fax phone number for

the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AB

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